

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 459

91ST GENERAL ASSEMBLY

1208S.02T

2001

AN ACT

To repeal section 375.1220, RSMo 2000, relating to insurer liquidation law, and to enact in lieu thereof one new section relating to the same subject, with a termination date and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 375.1220, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 375.1220, to read as follows:

375.1220. 1. The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as the liquidator shall deem necessary. The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be allowed, under the supervision of the court, except where the liquidator is required by law to accept claims as settled by any person or organization. Unresolved disputes shall be determined pursuant to section 375.1214. No claim under a policy of insurance shall be allowed for any amount in excess of the applicable policy limits or without regard to policy deductibles.

2. If the fixing or liquidation of any claim or claims would unduly delay the administration of the liquidation or if the administrative expense of processing and adjudication of a claim or group of claims of a similar type would be unduly excessive when compared with the moneys which are estimated to be available for distribution with respect to such claim or group of claims, the determination and allowance of such claim or claims may be made by an estimate. Any such estimate shall be based upon an actuarial evaluation made with reasonable actuarial certainty or upon another accepted method of valuing claims with reasonable certainty.

3. The estimation of contingent liabilities permitted by subsection 2 of this section or any other section of this chapter may be used for the purpose of fixing a creditor's claim

19 in the estate, and for determining the percentage of partial or final dividend payments to
20 be paid to creditors with reported allowed claims. However, nothing in subsection 2 of this
21 section or any other section in this chapter shall be construed as authorizing the receiver,
22 or any other entity, to compel payment from a reinsurer on the basis of estimated incurred
23 but not reported losses and, except with respect to claims made pursuant to section
24 375.1212, outstanding reserves. Nothing in this subsection shall be construed to impair any
25 obligation arising pursuant to any insurance agreement.

26 4. Notwithstanding the provisions of this section or any other section of this chapter
27 to the contrary, the liquidator may negotiate a voluntary commutation and release of all
28 obligations arising from reinsurance contracts or other agreements.

29 5. The provisions of subsection 3 of this section shall not apply to and have no force
30 and effect regarding any formal delinquency proceeding in which, prior to August 28,
31 1999, the court in which such proceeding was or is pending issued any order or decree
32 construing or applying the provisions of this section.

33 6. Subsections 3 and 5 of this section shall terminate on December 31, 2005.

2 [375.1220. 1. The liquidator shall review all claims duly filed in the liquidation
3 and shall make such further investigation as the liquidator shall deem necessary. The
4 liquidator may compound, compromise or in any other manner negotiate the amount for
5 which claims will be allowed, under the supervision of the court, except where the
6 liquidator is required by law to accept claims as settled by any person or organization.
7 Unresolved disputes shall be determined pursuant to section 375.1214. No claim under
8 a policy of insurance shall be allowed for any amount in excess of the applicable policy
9 limits or without regard to policy deductibles.

10 2. If the fixing or liquidation of any claim or claims would unduly delay the
11 administration of the liquidation or if the administrative expense of processing and
12 adjudication of a claim or group of claims of a similar type would be unduly excessive
13 when compared with the moneys which are estimated to be available for distribution
14 with respect to such claim or group of claims, the determination and allowance of such
15 claim or claims may be made by an estimate. Any such estimate shall be based upon an
16 actuarial evaluation made with reasonable actuarial certainty or upon another accepted
17 method of valuing claims with reasonable certainty.

18 3. The estimation of contingent liabilities permitted by subsection 2 of this
19 section or any other section of this chapter may be used for the purpose of fixing a
20 creditor's claim in the estate, and for determining the percentage of partial or final
21 divided payments to be paid to creditors with reported allowed claims. However,
22 nothing in subsection 2 of this section or any other section in this chapter shall be
23 construed as authorizing the receiver, or any other entity, to compel payment from a
24 reinsurer on the basis of estimated incurred but not reported losses and, except with
25 respect to claims made pursuant to section 375.1212, outstanding reserves. Nothing in
this subsection shall be construed to impair any obligation arising pursuant to any

26 insurance agreement.

27 4. Notwithstanding the provisions of this section or any other section of this
28 chapter to the contrary, the liquidator may negotiate a voluntary commutation and
29 release of all obligations arising from reinsurance contracts or other agreements.

30 5. The provisions of this section shall not apply to and have no force and effect
31 regarding any formal delinquency proceeding in which, prior to the effective date of this
32 act, the court in which such proceeding was or is pending issued any order or decree
33 construing or applying the provisions.

34 6. Subsections 3, 4 and 5 of this section shall terminate on December 31, 2000.]

Section B. Because of the need to accurately estimate contingent liabilities in order to
2 fix a creditor's claim in a liquidation estate, section 375.1220 of this act is deemed necessary for
3 the immediate preservation of the public health, welfare, peace and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and section 375.1220 of this act
5 shall be in full force and effect upon its passage and approval.